



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
James River Petroleum, Inc.
FOR
Shop N Go Valero
Facility ID No. 4012383**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and James River Petroleum, Inc., for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the physical location where the USTs are installed and/or operated, known as Shop N Go Valero located at 16323 Governor Harrison Pkwy in Brunswick County, Virginia. The Facility's USTs are owned by James River Petroleum, Inc., and the Facility is further identified by UST Facility ID# 4-012383.

5. "Form 7530-2" means the Notification for Underground Storage Tanks form used by DEQ to register and track USTs for proper operation, closure and ownership, in accordance with 9 VAC 25-580-70.
6. "JRP" means James River Petroleum, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. JRP is a "person" within the meaning of Va. Code § 62.1-44.3 who owns the Facility.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
8. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
10. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
11. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
14. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*
15. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

16. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
17. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
18. "Va. Code" means the Code of Virginia (1950), as amended.
19. "VAC" means the Virginia Administrative Code.
20. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. JRP is the Owner of the Facility in Brunswick County, Virginia. JRP stores regulated substances in the form of gasoline, diesel and kerosene in USTs at the Facility. Ali Imran is the Operator at the facility.
2. The USTs contain a Regulated Substance, and are therefore subject to the Regulations. The Regulations require that all USTs meet final, specific performance requirements for release detection and spill, overfill, and corrosion protection.
3. On March 26, 2015, Department staff inspected the Facility to evaluate JRP's compliance with the requirements of the State Water Control Law and the Regulations. At that time, there were five USTs on-site: 1-12,000 gallon gasoline (1C); 1-8,000 gallon gasoline (2C); 1-12,000 gallon diesel (3C), 1-4,000 gallon off-road diesel (4C) and 1-4,000 gallon kerosene (5C) all owned by JRP. DEQ staff observed the following:
 - a. Form 7530-2A, the registration form for this facility, was incorrect;
 - b. Spill prevention devices were filled with liquid and debris;
 - c. Records of recent compliance with UST release detection requirements were not available;
 - d. Records of recent compliance with piping release detection requirements were not available;
 - e. Records of compliance with operator training requirements were not available; and
 - f. Subsequent evidence demonstrated that JRP has not performed monthly Release Detection on UST 5C or annual Release Detection for its associated piping.

4. DEQ staff issued a Request for Corrective Action, dated March 26, 2015, for the violations listed in paragraph C.3 (a) through (e) to the operator. This document requested the correction of the violations noted in paragraph C.3 and was confirmed by JRP staff as being received on April 8, 2015.
5. On April 8, 2015, JRP submitted a Form 7530-2 dated June 1, 2005 certifying that JRP owns the USTs at the Facility. This resolved item C.3(a). No other compliance documentation was received by DEQ staff in response to the Request for Corrective Action.
6. During the inspection the operator provided a printout from the Veedor-Root Automatic Tank Gauge Release Detection system at the facility which provided passing results for UST numbers 1C, 2C and 3C and no results for UST numbers 4C and 5C.
7. 9VAC25-580-70 requires that any owner who brings an underground storage tank system into use after May 8, 1986, must within 30 days of bringing such tank into use, submit, in the form prescribed in APPENDIX I of this chapter, a notice of existence of such tank system to the board. Any change in ownership, tank status (e.g., temporarily/permanently closed out), tank/piping systems (e.g., upgrades such as addition of corrosion protection, internal lining, release detection), substance stored (e.g., change from petroleum to hazardous substance) requires the UST owner to submit an amended notification form within 30 days after such change/upgrade occurs or is brought into use.
8. 9VAC25-580-50 states that in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must use spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe.
9. 9VAC25-580-120 and 9VAC25-580-180 require that records of recent compliance with release detection requirements, including results of sampling, testing, or monitoring performed in the past year, must be maintained either at the UST site and immediately available for inspection, or at a readily available alternative site and be provided for inspection upon request.
10. 9VAC25-580-125.B, 125.C and 125.F require that owners and operators of petroleum UST systems designate and train Class A, Class B, and Class C operators for each UST system or facility that has USTs and prepare and maintain a list of designated Class A, Class B, and Class C operators and maintain a copy of each certificate of training for Class A and Class B operators and the Class C operator instructions or procedures. 9VAC25-580-120(2) (e) states that owners and operators must maintain documentation of operator training required by 9VAC25-580-125, including verification of training for

current Class A, Class B, and Class C operators, and current list of operators and written instructions or procedures for Class C operators in accordance with 9VAC25-580-125.

11. 9VAC25-580-130 requires that owners and operators provide a method, or combination of methods, of release detection that can detect a release from any portion of the tank and the connected underground piping that routinely contains product. 9 VAC 25-580-140 specifies that USTs must be monitored at least every 30 days for releases using one of the methods listed. 9VAC25-580-140 requires that pressurized underground piping that routinely contains regulated substances must be equipped with an automatic line leak detector that is tested for proper functionality annually in accordance with 9VAC25-580-170. In addition, pressurized piping must have an annual line tightness test conducted in accordance with subdivision 2 of 9VAC25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9VAC25-580-170.
12. DEQ staff sent a Warning Letter dated July 8, 2015, for the violations listed in paragraphs C.3(b) through C.3(e), above. The Warning Letter requested that JRP respond in writing by July 28, 2015 and included a copy of the Request for Corrective Action. JRP failed to respond to the Warning Letter.
13. On September 25, 2015, the Department issued Notice of Violation No. TPRO148037 to JRP for violations listed in paragraphs C.3(c) through C.3(e) above.
14. On November 19, 2015, DEQ staff and the JRP representative discussed the violations contained in the NOV, a corrective action plan and a schedule to return to compliance. During this discussion, the JRP representative confirmed that the spill prevention devices had been cleared of debris resolving item C.3(b).
15. On December 8, 2015, JRP submitted the following documentation:
 - a. operator training certificates dated November 30, 2015 for the Class A, B and C operators, resolving item C.3(e) above.
 - b. tank tightness test results that were conducted on November 24, 2015. All five USTs passed.
 - c. UST Release Detection records from the Veedor Root Automatic Tank Gauge system from August 12, 2015 through December 6, 2015 for all USTs except the kerosene UST (5C).
 - d. line tightness and leak detector test results that were conducted on April 21, 2015 for the piping (except for UST 5C, the kerosene UST, which was not tested). The test results indicated that piping associated with UST numbers 1C, 3C and 4C passed both tests and met the Release Detection requirements for piping. The test

results indicated that the piping for UST 2C, containing premium gasoline, did not pass.

16. On December 10, 2015, JRP indicated the following: 1) it would provide additional piping Release Detection records for the piping associated with UST 2C; 2) it would provide two more months of UST Release Detection records for UST number 1C, 2C, 3C and 4C; 3) it would finalize plans to either fill UST 5C with enough fuel to perform monthly UST Release Detection, begin using a different method of UST Release Detection, or permanently or temporarily close it; and 4) that the Release Detection method used at the Facility was not capable of testing the kerosene UST (UST 5C) given its current product inventory level.
17. Based on the discussion with JRP on December 10, 2015 and the Release Detection test results submitted by JRP, monthly Release Detection has not been performed on UST 5C nor has annual Release Detection testing been performed for its associated piping since the inspection date. This supports the observation noted in paragraph C.3(f).
18. On December 14, 2015, JRP submitted documentation demonstrating that the company that conducted the piping tests in April 2015 performed additional testing on the piping for tank 2C and discovered a small leak. JRP repaired the leak and subsequently re-tested the piping on May 18, 2015 and it tested "tight." JRP stated that no product was released into the environment as a result of this small leak. This resolves item C.3(d) with the exception of the kerosene UST (5C).
19. On February 3, 2016, JRP submitted passing UST release detection records for all of the USTs except the kerosene UST (5C). JRP's submissions of UST Release Detection records on December 8, 2015 and February 3, 2016, resolve item C.3(c) above, with the exception of the kerosene UST (5C).
20. Based on the results of the inspection on March 26, 2015, the statements made by JRP, and the documentation submitted by JRP, the Board concludes that JRP has violated 9 VAC 25-580-120, -125, -130, -140, -170, and -180, as described in Section C, above.
21. JRP has submitted documentation that verifies that the violations described in paragraphs C.3(a), C.3(c), C.3(d) and C.3(e) have been corrected, with the exception of the kerosene UST (5C). JRP has also confirmed that item C.3(b) has been corrected.
22. In order for JRP to complete its return to compliance, DEQ staff and representatives of JRP have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders JRP, and JRP agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$2,400.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

JRP shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, JRP shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of JRP for good cause shown by JRP, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. TPRO148037 dated September 25, 2015 and the Warning Letter dated July 8, 2015. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, JRP admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. JRP consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. JRP declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by JRP to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. JRP shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. JRP shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. JRP shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the JRP intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and JRP. Nevertheless, JRP agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after JRP has completed all of the requirements of the Order;
 - b. JRP petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to JRP.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve JRP from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by JRP and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of JRP certifies that he or she is a responsible officer authorized to enter into the terms and conditions of this Order and to execute and legally bind JRP to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of JRP.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, JRP voluntarily agrees to the issuance of this Order.

Consent Order
James River Petroleum, Inc.
Facility ID No. 4012383
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And it is so ORDERED this _____ day of _____, 2016.

Michael P. Murphy, Regional Director
Department of Environmental Quality

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James River Petroleum, Inc., voluntarily agrees to the issuance of this Order.

Date: 5/10/14 By: [Signature], U.P.
(Person) (Title)
James River Petroleum, Inc.

Commonwealth of Virginia
City/County of Hanover

The foregoing document was signed and acknowledged before me this 10th day of
May, 2014, by Gregory Natvig who is
V.P. of Operations of James River Petroleum, Inc., on behalf of the corporation.

[Signature] Devin Netter
Notary Public

7643051
Registration No.

My commission expires: 9/30/18

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Release Detection Records

JRP shall maintain reporting and record keeping as required in 9VAC25-580-120. JRP shall submit UST Release Detection thirty day monitoring results to DEQ as follows: the first set of results shall be due no later than April 10, 2016; and the second set of results shall be due no later than May 10, 2016.

2. DEQ Contact

Unless otherwise specified in this Order, JRP shall submit all requirements of Appendix A of this Order to:

**Tony Somoza
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
804-527-5071
Antonio.somoza@deq.virginia.gov**